

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 327

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO DOMESTIC VIOLENCE; IMPOSING A FEE UPON OFFENDERS;  
CREATING A FUND; MAKING AN APPROPRIATION TO DEFRAY THE COST OF  
PROVIDING TREATMENT TO DOMESTIC VIOLENCE OFFENDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 34, Article 6 NMSA  
1978 is enacted to read:

"NEW MATERIAL COURT FEES-- DEPOSIT IN THE DOMESTIC  
VIOLENCE OFFENDER TREATMENT FUND. --

A. In addition to any other fees collected in the  
district court, a district court shall assess and collect from  
a person convicted of a petty misdemeanor, misdemeanor or  
felony offense a "domestic violence offender treatment fee" of  
five dollars (\$5.00).

B. Domestic violence offender treatment fees shall

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1 be deposited in the domestic violence offender treatment fund."

2 Section 2. Section 35-6-1 NMSA 1978 (being Laws 1968,  
3 Chapter 62, Section 92, as amended by Laws 2001, Chapter 277,  
4 Section 2 and also by Laws 2001, Chapter 279, Section 2) is  
5 amended to read:

6 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF  
7 "CONVICTED".--

8 A. Magistrate judges, including metropolitan court  
9 judges, shall assess and collect and shall not waive, defer or  
10 suspend the following costs:

11 docket fee, criminal actions under Section 29-5-1 NMSA  
12 1978 . . . . . \$ 1.00;

13 docket fee, to be collected prior to docketing any other  
14 criminal action, except as provided in Subsection B  
15 of Section 35-6-3 NMSA 1978 . . . . . 20.00.

16 Proceeds from this docket fee shall be transferred  
17 to the administrative office of the courts for  
18 deposit in the court facilities fund;

19 docket fee, ten dollars (\$10.00) of which shall be  
20 deposited in the court automation fund and fifteen  
21 dollars (\$15.00) of which shall be deposited in the  
22 civil legal services fund, to be collected prior to  
23 docketing any civil action, except as provided in  
24 Subsection A of Section 35-6-3 NMSA 1978 . . 62.00;

25 jury fee, to be collected from the party demanding trial

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1 by jury in any civil action at the time the demand  
 2 is filed or made . . . . . 25.00;  
 3 copying fee, for making and certifying copies of any  
 4 records in the court, for each page copied by  
 5 photographic process . . . . . .50.  
 6 Proceeds from this copying fee shall be transferred  
 7 to the administrative office of the courts for  
 8 deposit in the court facilities fund; and  
 9 copying fee, for computer-generated or electronically  
 10 transferred copies, per page . . . . . 1.00.  
 11 Proceeds from this copying fee shall be transferred  
 12 to the administrative office of the courts for  
 13 deposit in the court automation fund.

14 Except as otherwise specifically provided by law, docket  
 15 fees shall be paid into the court facilities fund.

16 B. Except as otherwise provided by law, no other  
 17 costs or fees shall be charged or collected in the magistrate  
 18 or metropolitan court.

19 C. The magistrate or metropolitan court may grant  
 20 free process to any party in any civil proceeding or special  
 21 statutory proceeding upon a proper showing of indigency. The  
 22 magistrate or metropolitan court may deny free process if it  
 23 finds that the complaint on its face does not state a cause of  
 24 action.

25 D. As used in this subsection, "convicted" means

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1 the defendant has been found guilty of a criminal charge by the  
2 magistrate or metropolitan judge, either after trial, a plea of  
3 guilty or a plea of nolo contendere. Magistrate judges,  
4 including metropolitan court judges, shall assess and collect  
5 and shall not waive, defer or suspend the following costs:

6 (1) corrections fee in any county without a  
7 metropolitan court, to be collected upon conviction from  
8 persons convicted of violating any provision of the Motor  
9 Vehicle Code involving the operation of a motor vehicle,  
10 convicted of a crime constituting a misdemeanor or a petty  
11 misdemeanor or convicted of violating any ordinance that may be  
12 enforced by the imposition of a term of imprisonment  
13 . . . . . \$10.00;

14 (2) court automation fee, to be collected upon  
15 conviction from persons convicted of violating any provision of  
16 the Motor Vehicle Code involving the operation of a motor  
17 vehicle, convicted of a crime constituting a misdemeanor or a  
18 petty misdemeanor or convicted of violating any ordinance that  
19 may be enforced by the imposition of a term of imprisonment  
20 . . . . . 10.00;

21 (3) traffic safety fee, to be collected upon  
22 conviction from persons convicted of violating any provision of  
23 the Motor Vehicle Code involving the operation of a motor  
24 vehicle . . . . . 3.00;

25 (4) judicial education fee, to be collected

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1 upon conviction from persons convicted of operating a motor  
2 vehicle in violation of the Motor Vehicle Code, convicted of a  
3 crime constituting a misdemeanor or a petty misdemeanor or  
4 convicted of violating any ordinance punishable by a term of  
5 imprisonment . . . . . 1.00;

6 (5) brain injury services fee, to be collected  
7 upon conviction from persons convicted of violating any  
8 provision of the Motor Vehicle Code involving the operation of  
9 a motor vehicle . . . . . 5.00;

10 [~~and~~]

11 (6) court facilities fee, to be collected upon  
12 conviction from persons convicted of violating any provision of  
13 the Motor Vehicle Code involving the operation of a motor  
14 vehicle, convicted of a crime constituting a misdemeanor or a  
15 petty misdemeanor or convicted of violating any ordinance that  
16 may be enforced by the imposition of a term of imprisonment as  
17 follows:

18 in a county with a metropolitan court . . . . . 24.00;

19 in any other county . . . . . 10.00; and

20 (7) domestic violence offender treatment fee,  
21 to be collected upon conviction from a person convicted of  
22 violating any provision of the Motor Vehicle Code involving the  
23 operation of a motor vehicle, convicted of a crime constituting  
24 a misdemeanor or a petty misdemeanor or convicted of violating  
25 an ordinance that may be enforced by the imposition of a term

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1 of imprisonment . . . . . 5.00.

2 E. Metropolitan court judges shall assess and  
3 collect and shall not waive, defer or suspend as costs a  
4 mediation fee not to exceed five dollars (\$5.00) for the  
5 docketing of small claims and criminal actions specified by  
6 metropolitan court rule. Proceeds of the mediation fee shall  
7 be deposited into the metropolitan court mediation fund."

8 Section 3. Section 35-7-4 NMSA 1978 (being Laws 1968,  
9 Chapter 62, Section 99, as amended) is amended to read:

10 "35-7-4. MAGISTRATE ADMINISTRATION--MONTHLY  
11 REMITTANCES.--Each magistrate court shall pay to the  
12 administrative office of the courts, not later than the date  
13 each month established by regulation of the director of the  
14 administrative office, the amount of all fines, forfeitures and  
15 costs collected by him during the previous month, except for  
16 amounts disbursed in accordance with law. The administrative  
17 office shall return to each magistrate a written receipt  
18 itemizing all money received. The administrative office shall  
19 deposit the amount of all fines and forfeitures with the state  
20 treasurer for credit to the current school fund. The  
21 administrative office shall deposit the amount of all costs,  
22 except all costs collected pursuant to Subsections D and E of  
23 Section 35-6-1 NMSA 1978, for credit to the general fund. The  
24 amount of all costs collected pursuant to Subsections D and E  
25 of Section 35-6-1 NMSA 1978 shall be credited as follows:

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1           A. the amount of all costs collected pursuant to  
2 Paragraph (1) of Subsection D of Section 35-6-1 NMSA 1978 for  
3 credit to the local government corrections fund;

4           B. the amount of all costs collected pursuant to  
5 Paragraph (2) of Subsection D of Section 35-6-1 NMSA 1978 for  
6 credit to the court automation fund;

7           C. the amount of all costs collected pursuant to  
8 Paragraph (3) of Subsection D of Section 35-6-1 NMSA 1978 for  
9 credit to the traffic safety education and enforcement fund;

10          D. the amount of all costs collected pursuant to  
11 Paragraph (4) of Subsection D of Section 35-6-1 NMSA 1978 for  
12 credit to the judicial education fund; [~~and~~]

13          E. the amount of all costs collected pursuant to  
14 Paragraph (7) of Subsection D of Section 35-6-1 NMSA 1978 for  
15 credit to the domestic violence offender treatment fund; and

16          [~~E.~~] F. the amount of all costs collected pursuant  
17 to Subsection E of Section 35-6-1 NMSA 1978 for credit to the  
18 metropolitan court mediation fund. "

19          Section 4. Section 66-8-116.3 NMSA 1978 (being Laws 1989,  
20 Chapter 320, Section 5, as amended) is amended to read:

21           "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS-- ADDITIONAL  
22 FEES.--In addition to the penalty assessment established for  
23 each penalty assessment misdemeanor, there shall be assessed:

24           A. in a county without a metropolitan court, ten  
25 dollars (\$10.00) to help defray the costs of local government

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1 corrections;

2 B. a court automation fee of ten dollars (\$10.00);

3 C. a traffic safety fee of three dollars (\$3.00),

4 which shall be credited to the traffic safety education and  
5 enforcement fund;

6 D. a judicial education fee of one dollar (\$1.00),  
7 which shall be credited to the judicial education fund;

8 E. a brain injury services fee of five dollars  
9 (\$5.00), which shall be credited to the brain injury services  
10 fund; [~~and~~]

11 F. a court facilities fee as follows:

12 in a county with a metropolitan court . . . . . 24.00;

13 in any other county . . . . . 10.00; and

14 G. a domestic violence offender treatment fee of  
15 five dollars (\$5.00), which shall be credited to the domestic  
16 violence offender treatment fund. "

17 Section 5. Section 66-8-119 NMSA 1978 (being Laws 1968,  
18 Chapter 62, Section 159, as amended) is amended to read:

19 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

20 A. The division shall remit all penalty assessment  
21 receipts, except receipts collected pursuant to Subsections A  
22 through [F] G of Section 66-8-116.3 NMSA 1978, to the state  
23 treasurer for credit to the general fund.

24 B. The division shall remit all penalty assessment  
25 fee receipts collected pursuant to:

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1 (1) Subsection A of Section 66-8-116.3 NMSA  
2 1978 to the state treasurer for credit to the local government  
3 corrections fund;

4 (2) Subsection B of Section 66-8-116.3 NMSA  
5 1978 to the state treasurer for credit to the court automation  
6 fund;

7 (3) Subsection C of Section 66-8-116.3 NMSA  
8 1978 to the state treasurer for credit to the traffic safety  
9 education and enforcement fund;

10 (4) Subsection D of Section 66-8-116.3 NMSA  
11 1978 to the state treasurer for credit to the judicial  
12 education fund;

13 (5) Subsection E of Section 66-8-116.3 NMSA  
14 1978 to the state treasurer for credit to the brain injury  
15 services fund; ~~and~~

16 (6) Subsection F of Section 66-8-116.3 NMSA  
17 1978 to the state treasurer for credit to the court facilities  
18 fund; and

19 (7) Subsection G of Section 66-8-116.3 NMSA  
20 1978 to the state treasurer for credit to the domestic violence  
21 offender treatment fund."

22 Section 6. ~~[NEW MATERIAL]~~ DOMESTIC VIOLENCE OFFENDER  
23 TREATMENT FUND CREATED-- APPROPRIATION-- PROGRAM REQUIREMENTS. --

24 A. The "domestic violence offender treatment fund"  
25 is created in the state treasury. All fees collected pursuant  
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1 to the provisions of Section 1 of this act and Sections 35-6-1,  
2 35-7-4, 66-8-116.3 and 66-8-119 NMSA 1978 shall be transmitted  
3 monthly to the department of finance and administration for  
4 credit to the domestic violence offender treatment fund.

5 B. Balances in the domestic violence offender  
6 treatment fund are appropriated to the children, youth and  
7 families department to provide funds to domestic violence  
8 offender treatment programs to defray the cost of providing  
9 treatment to domestic violence offenders. Unexpended or  
10 unencumbered balances remaining in the fund at the end of any  
11 fiscal year shall not revert to the general fund.

12 C. Payment out of the domestic violence offender  
13 treatment fund shall be made on vouchers issued and signed by  
14 the secretary of children, youth and families upon warrants  
15 drawn by the department of finance and administration.

16 D. In order to be eligible for money from the  
17 domestic violence offender treatment fund, a domestic violence  
18 offender treatment program shall include the following  
19 components in its program:

20 (1) an initial assessment to determine if a  
21 domestic violence offender will benefit from participation in  
22 the program;

23 (2) a written contract, which must be signed  
24 by the domestic violence offender, that sets forth:

25 (a) attendance and participation

1 requirements;

2 (b) consequences for failure to attend  
3 or participate in the program; and

4 (c) a confidentiality clause that  
5 prohibits disclosure of information revealed during treatment  
6 sessions;

7 (3) strategies to hold domestic violence  
8 offenders accountable for their violent behavior;

9 (4) a requirement that group discussions are  
10 limited to members of the same gender;

11 (5) an education component that:

12 (a) defines physical, emotional, sexual,  
13 economic and verbal abuse and techniques for stopping those  
14 forms of abuse; and

15 (b) examines gender roles,  
16 socialization, the nature of violence, the dynamics of power  
17 and control and the effects of domestic violence on children;

18 (6) a requirement that a domestic violence  
19 offender not be under the influence of alcohol or drugs during  
20 a treatment session;

21 (7) a requirement that the program provide  
22 monthly written reports to the presiding judge or the domestic  
23 violence offender's probation or parole officer regarding:

24 (a) proof of the domestic violence  
25 offender's enrollment in the program;

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1 (b) progress reports that address the  
2 domestic violence offender's attendance, fee payments and  
3 compliance with other program requirements; and

4 (c) evaluations of progress made by the  
5 domestic violence offender and recommendations as to whether or  
6 not to require the offender's further participation in the  
7 program; and

8 (8) a requirement that the term of the program  
9 be at least fifty-two weeks.

10 E. Counseling for couples shall not be a component  
11 of a domestic violence offender treatment program

12 F. As used in this section, "domestic violence  
13 offender" means:

14 (1) a person convicted for an offense pursuant  
15 to the provisions of the Crimes Against Household Members Act;  
16 or

17 (2) a person convicted for violating an order  
18 of protection granted by a court pursuant to the provisions of  
19 the Family Violence Protection Act.

20 Section 7. EFFECTIVE DATE. --The effective date of the  
21 provisions of this act is July 1, 2003.